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6 Attorneys for Defendant  
WELLS FARGO BANK, N.A.  
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9 UNITED STATES DISTRICT COURT  
10 NORTHERN DISTRICT OF CALIFORNIA  
11

12 LINDSAY SANTINI, on behalf of  
herself and others similarly situated,

13 Plaintiffs,

14 vs.

15 WELLS FARGO BANK, a  
16 National Association with its  
principal place of business in the  
17 State of California,

18 Defendants.  
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Case No.: 16-cv-01992-YGR

**CLASS ACTION**

**NOTICE OF FILING OF  
"OPPOSITION TO PLAINTIFFS'  
NOTICE OF RELATED CASES" IN  
WELLS FARGO WAGE AND HOUR  
CASES, JCCP 4821 CURRENTLY  
PENDING IN THE ALAMEDA  
SUPERIOR COURT, PURSUANT TO  
CALIFORNIA RULES OF COURT  
3.300**

1 PLEASE TAKE NOTICE THAT an Opposition to Plaintiffs' Notice of  
2 Related Cases has been filed by Defendant Wells Fargo Bank, N.A. in the *Wells*  
3 *Fargo Wage and Hour Cases*, Superior Court for the State of California, County of  
4 Alameda, Case No. JCCP 4821, pursuant to California Rules of Court ("CRC"),  
5 Rule 3.300. Pursuant to California Rule of Court 3.300(g), a true and correct copy  
6 of the opposition is attached hereto as Exhibit A.

7  
8 DATED: July 1, 2016

KADING BRIGGS LLP

9  
10 By /s/ Theresa A. Kading

11 Attorneys for Defendant  
12 Wells Fargo Bank, N.A.  
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EXHIBIT "A"

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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 COUNTY OF ALAMEDA  
10

11 Coordinated Proceeding  
Special Title (Rule 3.550)

12 **WELLS FARGO WAGE AND**  
13 **HOURLY CASES**

14 Included Actions:

15 *Ramirez et al. v. Wells Fargo Bank,*  
16 Alameda County Case No. RG10496146

17 *Richard v. Wells Fargo Bank, Alameda*  
18 County Case No. RG13690969

19 *Hanesoghlyan et al. v. Wells Fargo*  
20 *Bank, Los Angeles County Case No.*  
21 BC470634

JCCP NO. 004821

[Assigned to the Honorable George C.  
Hernandez, Jr. (Dept. 17) for all purposes]

**OPPOSITION TO PLAINTIFFS'**  
**NOTICE OF RELATED CASES**  
**[California Rule of Court 3.300]**

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1 Plaintiffs filed a Notice of Related Cases on June 23, 2016, and served it by mail  
 2 on that date. While the instant case and the cases identified by Plaintiffs in the Notice of  
 3 Related Cases involve the same defendant and allege wage and hour claims, that is where  
 4 the similarities end. Pursuant to California Rule of Court 3.300(g), Defendant Wells  
 5 Fargo Bank, N.A. (hereinafter, "Wells Fargo") opposes Plaintiffs' Notice of Related  
 6 Cases as follows:

### 7 **I. INTRODUCTION**

8 In relevant part, California Rule of Court 3.300 provides that a case is "related" to  
 9 another case if the cases:

- 10 "(1) Involve the same parties and are based on the same or similar claims;  
 11 (2) Arise from the same or substantially identical transactions, incidents, or events  
 12 requiring the determination of the same or substantially identical questions of law or fact;  
 13 ... or  
 14 (4) Are likely for other reasons to require substantial duplication of judicial  
 15 resources if heard by different judges."

16 The cases identified by Plaintiffs do not meet the criteria for being "related cases"  
 17 to the instant case under California Rule of Court 3.300 for several reasons.

18 First, Plaintiffs have conceded that the cases are not related. Plaintiffs knew about  
 19 two of the four cases identified – *Santini* and *Layog* – back in April 2016 when *the same*  
 20 *counsel* representing the *Ramirez* plaintiffs in the instant case filed those cases in the  
 21 Northern District of California. Plaintiffs did not file a Notice of Related Case at that time  
 22 in the instant case identifying *Santini* or *Layog* as related cases, nor did Plaintiffs' counsel  
 23 at that time file a Notice of Related Case in the *Layog* case, identifying *Santini* as related  
 24 to *Layog*, or vice versa. The only explanation is that they did not believe those cases to be  
 25 related because the putative class members in those cases held other positions at Wells  
 26 Fargo: Tellers in the case of *Layog* and Phone Bankers (referred to by Plaintiffs in the  
 27 Notice of Related Case as "Call Center employees") in the case of *Santini*. For the same  
 28 reason, and as will be discussed further herein, the other two cases identified by Plaintiffs

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1 in their Notice of Related Cases are also not related to the instant case.

2 Second, the cases do not “involve the same parties.” There is not a certified class  
3 in any of these cases. In *Wells Fargo Bank Wage and Hour Cases*, JCCP 4702, class  
4 certification was denied in January 2014<sup>1</sup> and, in the remaining cases, there has been no  
5 ruling on any motion for class certification. Accordingly, Plaintiffs represent *only* the  
6 named plaintiffs, none of whom are plaintiffs in more than one case. In addition, as  
7 Plaintiffs admit in the Notice of Related Cases, the class definitions are not overlapping  
8 with the instant case. Each case alleges a putative class that contains individuals holding  
9 different job positions with different duties and expectations.

10 Third, because the class definitions are not overlapping, the cases do not “arise  
11 from the same or substantially identical transactions, incidents, or events requiring the  
12 determination of the same or substantially identical questions of law or fact.”

13 Fourth, Plaintiffs have provided no argument or authority that the cases “are likely  
14 for other reasons to require substantial duplication of judicial resources if heard by  
15 different judges.” In fact, they tacitly concede that this is not the case because they do not  
16 seek to have the cases transferred to the same judge. Perhaps that is because there is no  
17 legal basis to do so. Given that *Carroll*, *Layog*, and *Santini* are pending in federal court,  
18 there is no legal mechanism to move these cases to Alameda County Superior Court. The  
19 fourth case identified by Plaintiffs -- *Wells Fargo Bank Wage and Hour Cases*, JCCP  
20 4702 -- is pending in Los Angeles County Superior Court and cannot be transferred to  
21 Alameda County Superior Court in the absence of a coordination motion. There would be  
22 no basis for making such a motion given that class certification has already been denied in  
23 that case and there is no remaining “putative class.”

24 For all of these reasons, the cases identified by Plaintiffs in the Notice of Related  
25 Cases are not related to the instant case under California Rule of Court 3.300.

26 \_\_\_\_\_  
27 <sup>1</sup> The Court in JCCP 4702 certified a rest period subclass but the parties later stipulated to  
28 decertify the class and the rest period class allegations were dismissed.

**II. THE CASES IDENTIFIED BY PLAINTIFFS ARE NOT “RELATED” TO THIS CASE UNDER CALIFORNIA RULE OF COURT 3.300**

**A. Plaintiffs Concede that These Cases Are Not Related.**

As an initial matter, Plaintiffs have conceded that these cases are not related. First, under California Rule of Court 3.300(c)(3), a Notice of Related Case must “[d]escribe the manner in which the cases are related.” The *only* such description offered by Plaintiffs is that the “cases involve the same defendant (Wells Fargo Bank), and are based on the same or similar claims of wage and hour violations under California and/or the FLSA.” If that were enough, every wage and hour class action against Wells Fargo would be related to every other one. And that is simply not the law.<sup>2</sup>

Second, on April 15, 2016, the Markham Law Firm, who is also plaintiffs’ counsel in the *Ramirez* case, one of the three cases that have been coordinated in the instant case, filed the *Layog* case and the *Santini* case, two of the cases Plaintiffs are now claiming are related to this case, in the Northern District of California. The plaintiffs in those cases, represented by Markham Law Firm, filed Civil Cover Sheets with those complaints indicating the absence of any related cases. *See Santini* Docket No. 1-1; *Layog* Docket No. 1-1. Plaintiffs did not identify this case, nor did they identify the *Layog* case in the *Santini* filing, or vice versa. Neither did Plaintiffs file within 15 days, as is required by California Rule of Court 3.300(e), a Notice of Related Case in this case identifying *Layog* or *Santini* as related cases. No one knew sooner than the Markham Law Firm of the three lawsuits (since they filed them) and no one knows the allegations better (as they framed the complaints), yet they did not make any such filing at that time. In other words, Plaintiffs have conceded that *Layog* and *Santini* are not related to each other or to the instant case. While one can only speculate as to Plaintiffs’ counsel’s motive for making

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<sup>2</sup> For example, Plaintiffs have not listed *Perez, et al. v. Wells Fargo & Company, et al.*, Case No. C 14-0989 PJH (filed before *Carroll*, *Layog*, and *Santini*), another wage and hour class action brought against Wells Fargo by a putative class of non-exempt employees, of which they are aware, as a related case.

1 this filing now, it is not because they believe these cases are related.

2 **B. These Cases Do Not Involve the Same Parties.**

3 As an initial matter, given that no class has been certified in any of these cases (and  
4 class certification has been denied in one of the cases), the only parties are the individual  
5 named plaintiffs themselves and there is no overlap of named plaintiffs. Thus, the only  
6 party consistent among the cases is Wells Fargo. Plaintiffs could not possibly argue that  
7 the fact that Wells Fargo is a defendant is sufficient to make such cases related.

8 Furthermore, Plaintiffs admit that even the class definitions are not overlapping, as  
9 they all contain individuals holding different job positions with different duties and  
10 expectations. The instant case asserts wage and hour claims on behalf of a putative class  
11 who hold (or have held) the positions of Customer Sales and Service Representative,  
12 Personal Banker, Premier Banker, and Business Banking Specialist. These are referred to  
13 as the “platform” employees. These Team Members meet with customers and prospective  
14 customers to discuss various banking products and opportunities, for example, a checking  
15 account or a credit card, either in the retail store location or at an appointment outside the  
16 retail store location. When they are in the retail store location, they sit at desks that are in  
17 the store (rather than at Teller “windows”).

18 The first case alleged by Plaintiffs to be related to this case – *Wells Fargo Bank*  
19 *Wage and Hour Cases*, JCCP 4702 – *sought* to represent a putative class of individuals  
20 who held the Teller or Lead Teller position at Wells Fargo.<sup>3</sup> These Team Members are  
21 the individuals who help customers with banking transactions at the Teller “windows”  
22 such as a deposit or withdrawal transaction.

23 The second case identified by Plaintiffs – *Carroll* – has a class definition in the  
24 operative Complaint that includes “all non-exempt employees of Wells Fargo in  
25 California” but, as Plaintiffs admit, the named plaintiff only held the non-exempt position  
26

27 <sup>3</sup> As indicated above, class certification was denied in January 2014, so there is no  
28 putative class in that case.



1 of Service Manager 1 during the time period covered by that case. Service Manager 1's  
 2 act as a supervisor for Team Members in the Teller or Lead Teller role and, significantly,  
 3 are often the individuals creating the work schedule, including the meal and break  
 4 schedule.<sup>4</sup>

5 As with *Wells Fargo Bank Wage and Hour Cases*, JCCP 4702, the third case  
 6 identified by Plaintiffs – *Layog* – seeks to represent a putative class of Tellers.<sup>5</sup>

7 The fourth case identified by Plaintiffs – *Santini* – seeks to represent a putative  
 8 class of Phone Bankers. Phone Bankers are not located in a retail store location but rather  
 9 answer customer calls that come in to a call center, and, among myriad other differences,  
 10 report to different supervisors, and use a different scheduling program.

11 Again, Plaintiffs have *conceded* that these cases do not involve the same parties by  
 12 not identifying *Layog* or *Santini* as related cases in the instant case at the time those cases  
 13 were filed and by not identifying *Layog* as related to *Santini* or vice versa.

14 **C. These Cases Do Not Arise from the Same Transaction, Incident, or Event.**

15 For the same reasons, these cases do not arise from the same transaction, incident,  
 16 or event. It is Wells Fargo's contention that there are no common issues of law or fact in  
 17 any of these cases because Wells Fargo has lawful policies and each Team Member's  
 18 situation will differ based on, for example, where they work, who they report to, their own  
 19 personal experiences and perception, etc. These differences are even more pronounced  
 20 when the individuals hold entirely different positions with different duties and  
 21 expectations, as described above. For example, the experiences of a Teller, who works at  
 22 a Teller "window" during most of his or her day, are going to be different than the

23 \_\_\_\_\_  
 24 <sup>4</sup> Plaintiff Carroll also names Wells Fargo & Company as a defendant in that case. Wells  
 Fargo & Company is not a party to the instant case.

25 <sup>5</sup> The *Layog* Complaint also includes an FLSA claim which purports to seek certification  
 26 of a nationwide collective action. The instant case does not have an FLSA claim. In  
 27 addition, Plaintiff Layog has named "Wells Fargo, an unknown business entity" as a  
 28 defendant as well as 100 "Doe" defendants. The "Wells Fargo" entity likely refers to  
 Wells Fargo Bank, N.A. as it is the entity that employed Layog.

1 experiences of a Personal Banker, who meets with customers or prospective customers  
2 throughout the day both in and out of the retail store location.

3 **D. These Cases Are Not Likely for other Reasons to Require Substantial**  
4 **Duplication of Judicial Resources If Heard by Different Judges.**

5 As an initial matter, Plaintiffs have not asked for these cases to be transferred to  
6 this Court. As above, perhaps that is because none of these other cases are pending in  
7 Alameda County Superior Court and, accordingly, there is no legal mechanism under  
8 California Rule of Court 3.300 to do so. In addition, the cases are not likely to require  
9 substantial duplication of judicial resources if heard by different judges. Given that the  
10 cases involve different populations, the legal issues are no more overlapping than they are  
11 in any two cases alleging wage and hour claims. Plaintiffs' reasoning would require all  
12 cases alleging wage and hour claims against Wells Fargo to be heard by the same judge  
13 and that is clearly not the law.

14 Furthermore, the cases are at very different procedural postures. The instant case  
15 has been pending for more than six years while, at the other end of the spectrum, *Layog*  
16 and *Santini* were filed less than three months ago and there has not even been a  
17 Scheduling Conference in either case. In *Wells Fargo Bank Wage and Hour Cases*, JCCP  
18 4702, class certification has already been heard and denied.

19 In sum, Plaintiffs provide no argument that these cases would require duplication  
20 of judicial resources if heard by different judges and there is no such argument to be  
21 made.

1 **III. CONCLUSION**

2 For the foregoing reasons, the cases should not be deemed related.

3  
4 DATED: June 30, 2016

KADING BRIGGS LLP

5  
6 By Theresa A. Kading  
Theresa A. Kading

7 Attorneys for Defendant  
8 WELLS FARGO BANK, N.A.  
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**PROOF OF SERVICE**

STATE OF CALIFORNIA

) ss:  
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COUNTY OF ORANGE

I am employed in the County of Orange, State of California. I am over the age of 18, and not a party to the within action. My business address is Kading Briggs LLP, 100 Spectrum Center Drive, Suite 800, Irvine, CA 92618; and that on this date true and correct copies of the following documents:

**NOTICE OF FILING OF "OPPOSITION TO PLAINTIFFS' NOTICE OF RELATED CASES" IN *WELLS FARGO WAGE AND HOUR CASES*, JCCP 4821 CURRENTLY PENDING IN THE ALAMEDA SUPERIOR COURT, PURSUANT TO CALIFORNIA RULES OF COURT 3.300**

was served on the following interested parties by enclosing the same in a sealed envelope with first-class postage fully prepaid and deposited the sealed envelope with the United States Postal Services, as follows:

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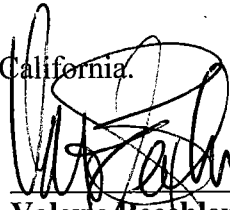
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12 (Attorneys for Defendant Wells Fargo in  
13 *Layog v. Wells Fargo*)

14 I declare under penalty of perjury under the laws of the State of California that the  
15 foregoing is true and correct.

16 Executed on **July 1, 2016**, at Irvine, California.

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Valerie Beechler